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| APPLICATION NO.            | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------|-------------|----------------------|---------------------|------------------|
| 10/779,311                 | 02/12/2004  | Helmut Scholz        | 71237               | 7407             |
| 23872                      | 7590        | 04/14/2005           | EXAMINER            |                  |
| MCGLEW & TUTTLE, PC        |             |                      | CHOI, STEPHEN       |                  |
| P.O. BOX 9227              |             |                      | ART UNIT            | PAPER NUMBER     |
| SCARBOROUGH STATION        |             |                      |                     |                  |
| SCARBOROUGH, NY 10510-9227 |             |                      | 3724                |                  |

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                          |                     |  |
|------------------------------|--------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>   | <b>Applicant(s)</b> |  |
|                              | 10/779,311               | SCHOLZ, HELMUT      |  |
|                              | Examiner<br>Stephen Choi | Art Unit<br>3724    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/04.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"the shaft of the saw tool" lacks positive antecedent basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Dehari (US 5,146,825).

Dehari discloses all the recited elements of the invention including:

- a) a saw head (15) tilttable around a horizontal tilt axis and carrying a saw tool (17);
- b) a bottom plate (2);
- c) a disk (4);
- d) a clamping device (14).

Regarding claim 4, an operating part (11).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edler (US 3,302,669) in view of Margolien (US 3,342,107).

Edler discloses the invention substantially as claimed including a saw head tiltable around a horizontal tilt axis and carrying a saw tool (300), a bottom plate (20), and a disk (30). Edler fails to disclose a clamping device. Margolien discloses a clamping device (41) for clamping a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a clamping device as taught by Margolien on the device of Edler in order to provide means for clamping an elongated tubular stock for cutting. Regarding claim 4, an operating part (164 of Edler). Regarding claims 5-6, the modified device of Edler fails to disclose a threaded spindle. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a threaded spindle for linearly displacing the saw head on the modified device of Edler since the examiner takes Official Notice on the use of threaded spindle as old and well known in the art for the purpose of positioning a tool. Snover shows one example of such a threaded spindle. Regarding claims 7-8, a pair of clamping jaws (41b, 41c of Margolien). Regarding claims 9-10, a center line of the clamping device mounted on the device of Edler in lieu

of an element 50 intersects a vertical rotational axis of the disk. Regarding claim 11, an adjusting member (41a). Regarding claim 12, an acute angle (see Figure 1 of Margolian). Regarding claim 14, col. 4, lines 55-59. Regarding claim 15, the element 41b and 41c of Margolian have at least one offset portion for clamping a pipe.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edler (US 3,302,669) in view of Margolian (US 3,342,107) as applied to claim 7 above, and further in view of Chen (US 5,862,731).

The modified device of Edler discloses the invention substantially as claimed except for a guide rod with a stop piece wherein the guide rod is fastened to at least one of the clamping jaws. Chen discloses a guide rod (33) with stop piece (35) wherein the guide rod is fastened to a clamping jaw. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a guide rod with a stop piece as taught by Chen on the modified device of Edler in order to provide means for positioning the workpiece at a desired location.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jull, Mooradian, Batson, Johnson, and Fletcher are cited to show related devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC  
11 April 2005



STEPHEN CHOI  
PRIMARY EXAMINER